

Nuclear Regulatory Commission

§ 170.11

(2) Any equipment or device, or important component part especially designed for this equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

Utilization facility means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U²³⁵ and any other equipment or device determined by rule of the Commission to be a utilization facility within the purview of subsection 11c of the Act.

[33 FR 10924, Aug. 1, 1968, as amended at 36 FR 146, Jan. 6, 1971; 38 FR 30254, Nov. 2, 1973; 40 FR 8794, Mar. 3, 1975; 43 FR 7218, Feb. 21, 1978; 46 FR 58284, Dec. 1, 1981; 49 FR 21302, May 21, 1984; 54 FR 15399, Apr. 18, 1989; 55 FR 21179, May 23, 1990; 56 FR 31499, July 10, 1991; 57 FR 18394, Apr. 30, 1992; 57 FR 32707, July 23, 1992; 58 FR 38690, July 20, 1993; 59 FR 36917, July 20, 1994; 64 FR 31469, June 10, 1999; 66 FR 32469, June 14, 2001; 67 FR 42629, June 24, 2002; 67 FR 64036, Oct. 17, 2002]

§ 170.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 170.5 Communications.

All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing the Office of Information Services, U.S. Nuclear

Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of non-public information.

[68 FR 58825, October 10, 2003]

§ 170.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

[62 FR 52191, Oct. 6, 1997]

§ 170.11 Exemptions.

(a) No application fees, license fees, renewal fees, inspection fees, or special project fees shall be required for:

(1) A special project that is a request/report submitted to the NRC—

(i) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(ii) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(iii) As a means of exchanging information between industry organizations and the NRC for the specific purpose of supporting the NRC's generic regulatory improvements or efforts.

(A) This fee exemption applies only when:

(1) It has been demonstrated that the report/request has been submitted to the NRC specifically for the purpose of supporting NRC's development of generic guidance and regulations (e.g., rules, regulations, guides and policy statements);

(2) The NRC, at the time the document is submitted, plans to use it for one of the purposes given in paragraph (a)(1)(iii)(A)(1) of this section. In this case, the exemption applies even if ultimately the NRC does not use the document as planned; and

(3) The fee exemption is requested in writing to the Chief Financial Officer in accordance with 10 CFR 170.5, and the Chief Financial Officer grants this request in writing.

(B) An example of the type of document that meets the fee exemption criteria is a topical report that is submitted to the NRC for the specific purpose of supporting the NRC's development of a Regulatory Guide, and which the NRC plans to use in the development of that Regulatory Guide.

(C) Fees will not be waived for reports/requests that are not submitted specifically for the purpose of supporting the NRC's generic regulatory improvements or efforts, because the primary beneficiary of the NRC's review and approval of such documents is the requesting organization. In this case, the waiver provision does not apply even though the NRC may realize some benefits from its review and approval of the document.

(D) An example of the type of document that does not meet the fee waiver criteria is a topical report submitted for the purpose of obtaining NRC approval so that the report can be used by the industry in the future to address licensing or safety issues.

(2) A contested hearing conducted by the NRC on a specific application or the authorizations and conditions of a specific NRC license, certificate, or other authorization, including those involving individual plant security modifications. This exemption does not apply to a contested hearing on a licensing action that the NRC determines directly involves a U.S. Government national security-related initiative, including those specifically associated with Presidentially-directed national security programs.

(3) [Reserved]

(4) A construction permit or license applied for by, or issued to, a non-profit educational institution for a production or utilization facility, other than a power reactor, or for the possession and use of byproduct material, source material, or special nuclear material. This exemption does not apply to those byproduct, source or special nuclear material licenses which authorize:

(i) Human use;

(ii) Remunerated services to other persons;

(iii) Distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material; and

(iv) Activities performed under a Government agency contract.

(5) A construction permit, license, certificate of compliance, or other approval applied for by, or issued to, a Government agency, except where the Commission is authorized by statute to charge such fees.

(6)–(8) [Reserved]

(9) State-owned research reactors used primarily for educational training and academic research purposes. For purposes of this exemption, the term *research reactor* means a nuclear reactor that—

(i) Is licensed by the Nuclear Regulatory Commission under section 104c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

(ii) If so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

(A) A circulating loop through the core in which the licensee conducts fuel experiments;

(B) A liquid fuel loading; or

(C) An experimental facility in the core in excess of 16 square inches in cross-section.

(10) Activities of the Commission undertaken, pursuant to part 75 of this chapter, solely for the purpose of implementation of the US/IAEA Safeguards Agreement.

(11) [Reserved]

(12) A performance assessment or evaluation for which the licensee volunteers at the NRC's request and which is selected by the NRC.

(b)(1) The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest.

(2) Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or

noncommercial public displays or scientific collections.

[33 FR 10924, Aug. 1, 1968, as amended at 36 FR 146, Jan. 6, 1971; 36 FR 18173, Sept. 10, 1971; 37 FR 24029, Nov. 11, 1972; 38 FR 18443, July 11, 1973; 43 FR 7218, Feb. 21, 1978; 45 FR 50718, July 31, 1980; 49 FR 21302, May 21, 1984; 55 FR 21179, May 23, 1990; 56 FR 31499, July 10, 1991; 59 FR 36917, July 20, 1994; 60 FR 32238, June 20, 1995; 62 FR 29207, May 29, 1997; 64 FR 31469, June 10, 1999; 67 FR 42629, June 24, 2002; 67 FR 64037, Oct. 17, 2002; 70 FR 30543, May 26, 2005]

§ 170.12 Payment of fees.

(a) *Application and registration fees.* Each application or registration for which a fee is prescribed must be accompanied by a remittance for the full amount of the fee. The NRC will not issue a new license or an amendment increasing the scope of an existing license to a higher fee category before receiving the prescribed application fee. The application or registration fee(s) is charged whether the Commission approves the application or not. The application or registration fee(s) is also charged if the applicant withdraws the application or registration.

(b) *Licensing fees.* (1) Licensing fees will be assessed to recover full costs for—

(i) The review of applications for new licenses and approvals;

(ii) The review of applications for amendments to and renewal of existing licenses or approvals;

(iii) Preapplication consultations and reviews; and

(iv) The full cost for project managers assigned to a specific plant or facility, excluding leave time and time spent on generic activities (such as rulemaking).

(2) Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. The full cost fees for professional staff time will be determined at the professional hourly rates in effect the time the service was provided. The full cost fees are payable upon notification by the Commission.

(3) The NRC intends to bill each applicant or licensee at quarterly intervals for all accumulated costs for each application the applicant or licensee has on file for NRC review, until the review is completed, except for costs that

were deferred before August 9, 1991. The deferred costs will be billed as described in paragraphs (b)(5), (b)(6) and (b)(7) of this section. Each bill will identify the applications and documents submitted for review and the costs related to each.

(4) The NRC intends to bill each applicant or licensee for costs related to project manager time on a quarterly basis. Each bill will identify the costs related to project manager time.

(5) Costs for review of an application for renewal of a standard design certification which have been deferred prior to the effective date of this rule must be paid as follows: The full cost of review for a renewed standard design certification must be paid by the applicant for renewal or other entity supplying the design to an applicant for a construction permit, combined license issued under 10 CFR Part 52, or operating license, as appropriate, in five (5) equal installments. An installment is payable each of the first five times the renewed certification is referenced in an application for a construction permit, combined license, or operating license. The applicant for renewal shall pay the installment, unless another entity is supplying the design to the applicant for the construction permit, combined license, or operating license, in which case the entity shall pay the installment. If the design is not referenced, or if all of the costs are not recovered, within fifteen years after the date of renewal of the certification, the applicant for renewal shall pay the costs for the renewal, or remainder of those costs, at that time.

(6) Costs for the review of an application for renewal of an early site permit which have been deferred prior to the effective date of this rule will continue to be deferred as follows: The holder of the renewed permit shall pay the applicable fees for the renewed permit at the time an application for a construction permit or combined license referencing the permit is filed. If, at the end of the renewal period of the permit, no facility application referencing the early site permit has been docketed, the permit holder shall pay any outstanding fees for the permit.